FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 28—Supp. 3]

SUPPLEMENT TO REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938–1939 MARKETING YEAR

Form 38—Tobacco 28, "Regulations Pertaining to Flue-cured Tobacco Marketing Quotas for the 1938–1939 Marketing Year",[1] is amended as follows:

Article V, Transfer of Quotas, is amended by striking out Section 509 and inserting in lieu thereof the following:

"SEC. 509. *Distribution of consideration.*—The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

"(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases, such consideration may be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the 'Instructions for Determination of Flue-cured Tobacco Farm Marketing Quotas for 1938.'

"(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration may be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

"(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

"(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement.

"(e) Notwithstanding the provisions of subsections (a) and (b) of this section, if any producer on the farm has marketed, subject to penalty, any portion of his tobacco which might have been marketed within the quota transferred from the farm, such producer shall, to the extent of the tobacco so marketed, be entitled to share in the consideration received for the transfer in proportion to his share in the tobacco available for marketing from the farm.

Done at Washington, D. C., this 7th day of January 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39–106; Filed, January 7, 1939; 12: 50 p. m.]

[1] 3 F. R. 1833, 2354, 2443 DI.

SUGAR DIVISION

[P. R. S. O. No. 13]

PART 821—SUGAR QUOTAS

DECISION AND ORDER ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1939 SUGAR QUOTA FOR PUERTO RICO

Preliminary Statement

Section 207 (b) of the Sugar Act of 1937 (hereinafter referred to as the "act") provides that no more than 126,033 short tons, raw value, of the

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FEDERAL REGISTER

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sugar quota for Puerto Rico for the calendar year 1939 may be filled by direct-consumption sugar.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe.

On October 6, 1938, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on October 25, 1938, for the purpose, among others, of receiving evidence to enable him to make a fair, efficient, and equitable distribution of that portion of the 1939 quota for Puerto Rico for consumption in the continental United States which may be filled by direct-consumption sugar.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on October 6, 1938, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of that portion of the 1939 quota for Puerto Rico for consumption in the continental United States which may be filled by direct-consumption sugar, pursuant to section 207 (b) of the said act, is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested parties an equitable opportunity to market such sugar in the continental United States, and hereby give notice that a public hearing will be held at Washington, D. C., in the auditorium of the United States Department of Agriculture on October 25, 1938, at 10 a. m."

The hearing was held at Washington, D. C., on the date specified in the notice.

Upon the preliminary question of the necessity for making allotments, the representative of the Sugar Division testified that, upon the basis of information available to the Department, there would be in 1939 potential supplies of direct-consumption sugar in Puerto Rico equal to approximately 436,168 short tons (R. p. 16). This figure was based in part on an estimated refining capacity of 21,000 short tons per annum for the new refinery (Camuy Sugar Company) which has begun operations since the issuance of 1938 allotments. However, subsequent testimony indicated that this new refinery has a potential refining capacity of 30,000 short tons of sugar per annum (R. p. 65).[1] Thus, the total annual rated refining capacity of all mills in Puerto Rico for 1939, and hence the potential supply of direct-consumption sugar available, is approximately 445,168 short tons of sugar, whereas the total amount of direct-consumption sugar which may be brought into the continental United States during 1939 is 126,033 short tons, raw value. Two other witnesses testified on this question, one contending that no allotment should be made (R. pp. 67–82), and the other taking the position that allotments are necessary (R. pp. 82–99). No factual testimony was offered in regard to the Secretary's finding that allotment of direct-consumption sugar was necessary in order to afford all interested persons an equitable opportunity to market such sugar.

In regard to the manner in which the allotment should be made, the representative of the Sugar Division testified that the first standard stated in the act, namely, the processings of sugar to which proportionate shares, established under the act, pertain, was inapplicable (R. p. 17) since the use of that standard would require the making of allotments to a number of processors in Puerto Rico who are not equipped to produce refined sugar, which constitutes the bulk of the direct-consumption sugar (R. p. 27). The testimony on this point on behalf of the Sugar Division was not controverted by any other witness.[2] The representative of the Sugar Division then proposed that allotments be made by giving fifty percent weight to each of the other two standards given in the act, namely, "past marketings" and "ability * * * to market" (R. p. 18). It was proposed to use as the measure of past marketings the quantities of direct-consumption sugar brought into the continental United States during the years 1935, 1936, and 1937 (R. p. 18). It was further proposed that ability to market be measured by giving equal weight to (1) mill refining capacity, measured by the outturn of sugar during the best ten consecutive working days for 1937 or the first nine months of 1938, multiplied by 300 working days in the case of mills making refined sugar and 125 days in the case of mills making washed or turbinado sugar, and (2) the quantities of direct-consumption sugar certified for entry into the continental United States between January 1 and March 30, 1938 (R. pp. 24, 25). The witness for Central Igualdad testified that the use of the years 1935, 1936, and 1937 as the measure of past marketings would be unfair to that company (R. p. 138), and proposed that fifty percent weight be given to past marketings but that such marketings be measured by (1) the average marketings of direct-consumption sugar for the

[1] 100 short tons per day multiplied by 300 days (R. p. 25).

[2] It was argued in the briefs filed on behalf of Central Guanica and Central Aguirre that the standard should be used in making the allotments.

years 1936, 1937, and 1938, (2) eighty percent of the average marketings for any two of such years, or (3) seventy percent of the marketings of any one of such years (R. pp. 138, 143), in a manner similar to the option given to a grower under the old Puerto Rican Production Adjustment Contract (R. pp. 138, 139). Witnesses testifying on behalf of Central Roig (R. pp. 299, 300), Central Camuy (R. pp. 325, 326), and Central San Francisco (R. pp. 351, 352), gave their approval to the proposal made on behalf of Central Igualdad.

On the question of ability to market, the witness for Central Igualdad testified that the proposed use of ten consecutive working days to measure refining capacity was unfair because that company followed the practice of closing down for week ends (R. p. 153), and that such proposal unduly favored one of the mills marketing direct-consumption sugar (R. p. 140).[3] The testimony on behalf of Central Aguirre (R. p. 169), Central Roig (R. p. 273), and Central Camuy (R. p. 323), indicated that these companies also followed the practice of discontinuing operations for the week end, or a similar period. Objection was also made to the proposal of the Sugar Division to give one-half weight to the quantities of sugar certified for entry into the continental United States between January 1 and March 30, 1938, in determining ability to market (Central Igualdad, R. p. 142; Central Aguirre, R. p. 161; Central Guanica, R. p. 176; Central Roig, brief, pp. 13–16; Central Camuy, R. p. 324). It was proposed that fifty percent weight be given to ability to market but that the measure be a ten consecutive working days average, exclusive of the days of liquidation, or a five consecutive working days average (Central Igualdad, R. p. 144; Central Roig, R. pp. 299, 300; Central Camuy, R. pp. 325, 326; Central San Francisco, R. pp. 351, 352). The testimony on behalf of the Porto Rican American Sugar Refinery indicated that that company was in substantial agreement with the basis of allotment proposed on behalf of the Sugar Division.

Basis of Allotment

The applicable standards given in the act for allotting that portion of the quota which may be filled by direct-consumption sugar are "past marketings" and "ability * * * to market." It is believed to be necessary to employ both of these standards in order to make a fair, efficient, and equitable distribution of the direct-consumption portion of the quota as required by the act.

There are two important factors to consider in determining "ability * * * to market" direct-consumption sugar. These two factors are (1) "refining capacity," and (2) current marketings of direct-consumption sugar. Both of these factors are essential to a determination of present ability to market sugar. The refining capacity of processors can best be determined by actual performance for a representative period of time, rather than by mere rated mill capacity. It is believed that the best ten consecutive working days should be taken as the basic performance period. However, in view of the fact that most mills in Puerto Rico follow the practice of discontinuing operations for the week end or a similar period (R. pp. 153, 169, 273, 323), it is deemed necessary, in the interest of fairness to all, to use the best five consecutive working days of the basic ten-day period. This five-day period is deemed to be a representative period for the purpose of measuring mill refining capacity. In regard to the second factor, it is believed that the period from January 1, 1938, to October 24, 1938, affords the best available measure of current marketings and should be considered in determining "ability * * * to market." This is deemed to be a fair measure in view of the fact that all 1938 allotments had been filled, or substantially filled, on October 24, 1938 (R. Ex. 4). Since it is apparent from the record that no processor will receive an allotment equal to the amount of direct-consumption sugar which could be marketed, it is important in determining ability to market to give such weight to the factors used as will afford the best relative measure of such ability for all processors. Accordingly, it is believed that the factor of "refining capacity," as measured by actual performance for the period stated, has a greater relative importance in measuring "ability * * * to market" than has the factor of current marketings. This results from the fact that current marketings could not exceed the allotment, whereas the production of sugar during the five consecutive working days was not subject to a similar limitation. Therefore, it is believed that "ability * * * to market" should be measured by giving three-fourths weight to the highest average output during the best five consecutive days of the above-mentioned basic ten-day period and by giving one-fourth weight to current marketings for the period from January 1, 1938, to October 24, 1938, as shown by the quantities of sugar certified for entry into the continental United States during that period.

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, 1937, and 1938 up to October 24, the day prior to the hearing, should be used since they represent the entire period during which a quota system has been in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation.

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935–1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to thirty-four raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

Summary of Evidence as to Capacity and Past Marketings

The evidence presented at the hearing in regard to mill refining capacity, as measured by the best five consecutive days of the basic ten-day period, may be summarized as follows:[4]

	Average daily run in short tons, refined value
Porto Rican American Sugar Refinery (R. Ex. 13)	690.65
Central Aguirre (R. Ex. 11)	110.12
Central Guanica (R. Ex. Unnumbered)	116.52
Central Igualdad (R. Ex. 7)	221.32
Central Roig (R. Ex. 14)	200.67
Central San Francisco (R. Ex. Unnumbered)	25.42
Central Camuy (R. Ex. 15)	75.64

The quantities of direct-consumption sugar marketed in the continental United States during the years 1935, 1936, 1937, and 1938 up to October 24 (R. Ex. 3 and Ex. 4), are as follows:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)			
	1935	1936	1937	Jan. 1 to Oct. 24, 1938
Porto Rican American Sugar Refinery	116,611	109,945	97,498	93,975
Central Aguirre	2,719	2,496	5,767	3,443
Central Carmen		264		
Central Guanica	1,015			3,355
Central Igualdad	163	438	52	5,744
Central Roig		2,778	16,204	11,843
Central San Francisco	2,463	2,590	1,981	1,766
	122,971	118,511	121,502	120,126

Findings of Fact

On the basis of the record of the hearing, I hereby find:

1. That, on the basis of rated refining capacity, Puerto Rican processors of direct-consumption sugar are equipped to produce approximately 445,168 short tons, refined value, of sugar during the calendar year 1939.

[3] Porto Rican American Sugar Refinery operates its mill continuously to fill its allotment (R. p. 214).

[4] No evidence on this point was presented on behalf of Central Carmen.

2. That the present plant capacity, measured by actual performance, of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor	*Refining Capacity Per Annum Refined Value* [1]
Porto Rican American Sugar Refinery	207,195
Central Aguirre	13,765
Central Carmen	------
Central Guanica	34,956
Central Igualdad	66,396
Central Roig	60,201
Central San Francisco	3,178
Central Camuy	22,692

[1] 300-day basis for mills manufacturing refined sugar and 125-day basis for mills manufacturing washed or turbinado sugar (R. p. 25).

3. That during the years 1935, 1936, 1937, and 1938 up to October 24, Puerto Rican processors brought direct-consumption sugar (refined and turbinado) into the continental United States for consumption therein in the following amounts:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)			
	1935	1936	1937	Jan. 1 to Oct. 24, 1938
Porto Rican American Sugar Refinery	116,611	109,945	97,498	93,975
Central Aguirre	2,719	2,496	5,767	3,443
Central Carmen	------	264	------	------
Central Guanica	1,015	------	------	3,355
Central Igualdad	163	438	52	5,744
Central Roig	------	2,778	16,204	11,843
Central San Francisco	2,463	2,590	1,981	1,766
	122,971	118,511	121,502	120,126

Conclusion

On the basis of the foregoing, and after consideration of the briefs submitted following the hearing and the objections and arguments filed in opposition to the proposed findings of fact, conclusions and order [6] of the presiding officers who conducted the hearing, I hereby determine and conclude that the allotment of that portion of the 1939 Puerto Rican sugar quota which may be filled by direct-consumption sugar is necessary in order to afford all interested persons an equitable opportunity to market sugar and to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of the direct-consumption portion of the quota, as required by section 205 (a) of the act, allotments should be made by giving equal weight to (1) past marketings during the years 1935, 1936, 1937, and 1938 up to October 24, and (2) ability to market, measured by giving three-fourths weight to present refining capacity, determined as aforesaid, and one-fourth weight to the quantities of direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and October 24, 1938.

[6] A copy was sent by registered mail on December 10, 1938, to each of the interested persons who were given until December 23, 1938, to file objections. Objections were filed by Porto Rican American Sugar Refinery, Central Roig, and Central Igualdad.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that:

SEC. 821.33 *Original allotments.* The direct-consumption portion of the 1939 sugar quota for Puerto Rico (126,033 short tons, raw value) is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor	*Direct-consumption allotment (short tons, raw value)*
Porto Rican American Sugar Refinery	86,714
Aguirre	3,749
Carmen	33
Guanica	4,827
Igualdad	8,851
Roig	11,972
San Francisco	1,668
Camuy	2,507
	120,321
Unallotted reserve for marketings of raw sugar for direct consumption	5,712
	126,033

(Sec. 205, 50 Stat. 906; 7 U. S. C., Sup. III, 1115)

SEC. 821.34 *Additional allotments.* The portion of the aforesaid unallotted reserve which is unfilled on September 1, 1939, shall be prorated among the above-named processors on the basis of the allotments set forth in Sec. 821.33 hereof and such allotments shall be increased accordingly. (Sec. 205, 50 Stat. 906; 7 U. S. C., Sup. III, 1115)

SEC. 821.35 *Restrictions on shipment.* The above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1939, any direct-consumption sugar (except the above-mentioned amount of raw sugar for direct consumption which may be brought in up to September 1, 1939) from Puerto Rico in excess of the marketing allotments established in Secs. 821.33 and 821.34 hereof. (Sec. 209, 50 Stat. 908; 7 U. S. C., Sup. III, 1119)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 5th day of January 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-74; Filed, January 5, 1939; 12:22 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2767]

IN THE MATTER OF INTERNATIONAL ART COMPANY ET AL.

SEC. 3.69 (b) (8) *Misrepresenting oneself and goods — Goods — Nature.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., directly or in any manner, that colored or tinted pictures, photographs, or photographic enlargements are hand-painted or are paintings, or using terms "oil painting", "portrait painting", "hand painting", or word "painting", either alone or in any way to describe, etc., colored or tinted pictures, photographs or photographic enlargements or other pictures produced from a photographic base or impression, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.69 (b) (5a) *Misrepresenting oneself and goods—Goods—History of product.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that any colored enlargement of a photograph has been entered in any competitive competition of paintings or that any award has been made to such enlargement in such competition, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.69 (b) 1a) *Misrepresenting oneself and goods—Goods—Conditions of manufacture.* Misrepresenting, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that any specified sum is the actual cost of "materials" in a picture or of "materials and delivery", or otherwise misrepresenting the actual cost of either materials or delivery, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that pictures are being, or will be, sold only to a limited number of customers, or otherwise misrepresenting any material fact concerning terms and conditions of sale, or extent to which sale of such pictures is limited, prohibited.

(Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., through use of a "draw", voting contest, "lucky" blanks, slips, coupons or certificates, or any other device, plan, scheme, prize contest, special introductory or advertising offer, that any customer thereby would obtain a financial advantage or be entitled to receive any picture free or a substantial discount or reduction in the price of any picture, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.72 (p) *Offering deceptive inducements to purchase—Undertakings, in general.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that pictures submitted to them or photographic enlargements made therefrom will be entered in any baby picture or other picture contest, unless such contest is in fact then being conducted and such pictures, etc., are eligible for entry therein, or otherwise misrepresenting existence of any picture contest or the eligibility of customer's pictures, etc., therein, or representing that they, respondents, their agents, etc., are conducting any special or advertising campaign in any particular place or locality for purpose of obtaining special exhibitors or for any other purpose, unless in fact such campaign is being conducted, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.72 (ma) *Offering deceptive inducements to purchase—Sample conformance.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that a picture similar to sample displayed will be delivered unless in fact picture delivered is of same kind, quality, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.69 (b) (12) *Misrepresenting oneself and goods—Goods—Qualities or properties of product.* Representing to customers, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that frames can be purchased elsewhere unless the odd design used can in fact be purchased from other sources or unless a standard design is furnished, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.69 (b) (8a) *Misrepresenting oneself and goods—Goods—Non-standard character.* Concealing from or failing to disclose to customers, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., that the finished picture, when delivered, will be so shaped and designed that it can only be used in a specially designed odd style of frame which can be procured from respondent International Art Company only, and generally at prices equal to or in excess of the prices already charged for pictures, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.51 *Enforcing payments wrongfully:* SEC. 3.69 (a) (2) *Misrepresenting oneself and goods—Business status, advantages or connections—Concealed interest:* SEC. 3.75 *Operating secret subsidiary.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor by respondents, their salesmen, agents, etc., that respondent, American Discount Company, is an innocent purchaser for value, without notice, before maturity, of notes for unpaid balances on pictures sold to such customers by respondent International Art Company, or has in good faith discounted such notes or paid out any money in connection with the purchase of such notes, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

SEC. 3.69 (b) (17) *Misrepresenting oneself and goods—Goods—Value:* SEC. 3.69 (c) (5) *Misrepresenting oneself and goods—Prices—Usual as reduced.* Representing, in connection with advertisement, offer, sale and distribution, in interstate commerce or in District of Columbia, of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, by respondents, their salesmen, agents, etc., as the customary or regular prices or values for pictures and frames, prices and values which are in fact fictitious and greatly in excess of prices at which they are regularly and customarily offered for sale, etc., in the normal and usual course of business, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, International Art Company et al., Docket 2767, December 16, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF INTERNATIONAL ART COMPANY, A CORPORATION; AMERICAN DISCOUNT COMPANY, A CORPORATION; AND JOHN C. KUCK, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents thereto, testimony and other evidence in support of the allegations of said complaint and in opposition thereto, taken before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, briefs filed herein, and oral arguments by Marshall Morgan, counsel for the Commission, and by Albert H. Fry, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the said respondents, International Art Company and American Discount Company, corporations, and their officers, and John C. Kuck, an individual, and their respective servants, salesmen, employees and agents, individual or corporate, in connection with the advertising, offering for sale and distribution in interstate commerce or in the District of Columbia of colored or tinted photographs or enlargements having a photographic base, and of frames therefor, do forthwith cease and desist from:

1. Representing, directly or in any manner, that colored or tinted pictures, photographs, or photographic enlargements are hand-painted or are paintings;

2. Using the terms "oil paintings", "portrait painting", "hand painting", or the word "painting", either alone or in conjunction with any other terms or words in any way to designate, describe or refer to colored or tinted pictures,

[1] 1 F. R. 679.

photographs or photographic enlargements or other pictures produced from a photographic base or impression;

3. Representing that any colored enlargement of a photograph has been entered in any competitive competition of paintings or that any award has been made to such enlargement in such competitive competition;

4. Misrepresenting that any specified sum is the actual cost of "materials" in a picture, or is the actual cost of "materials and delivery", or otherwise misrepresenting the actual cost of either materials or delivery;

5. Representing that such pictures are being, or will be, sold only to a limited number of customers, or otherwise misrepresenting any material fact concerning the terms and conditions of sale, or the extent to which the sale of such pictures is limited;

6. Representing that pictures submitted to them or photographic enlargements made therefrom will be entered in any baby picture or other picture contest, unless such contest is in fact then being conducted and such pictures or photographic enlargements are eligible for entry therein, or otherwise misrepresenting the existence of any picture contest or the eligibility of customer's pictures or photographic enlargements therein;

7. Representing that a picture similar to sample displayed will be delivered unless in fact the picture delivered is of the same kind, quality, design and workmanship;

8. Representing that they are conducting any special campaign or advertising campaign in any particular place or locality for the purpose of obtaining special exhibitors or for any other purpose, unless such campaign is in fact then being conducted in such locality for such purpose;

9. Representing, through use of a "draw" or voting contest or through use of "lucky" blanks, slips, coupons or certificates, or through use of any other device, plan or scheme or through any prize contest or special introductory or advertising offer, that any customer thereby would obtain a financial advantage or be entitled to receive any picture free or receive a substantial discount or reduction in the price of any picture or pictures;

10. Representing to the customer that frames can be purchased elsewhere unless the odd design used can in fact be purchased from other sources or unless a standard design is furnished;

11. Concealing from or failing to disclose to customers that the finished picture when delivered will be so shaped and designed that it can only be used in a specially designed odd style of frame which can be procured from the International Art Company only, and generally at prices equal to or in excess of the prices already charged for pictures;

12. Representing that respondent, American Discount Company, is an innocent purchaser for value, without notice, before maturity, of notes for unpaid balances on pictures sold to such customers by respondent International Art Company, or has in good faith discounted such notes or paid out any money in connection with the purchase of such notes;

13. Representing, as the customary or regular prices or values for such pictures and frames, prices and values which are in fact fictitious and greatly in excess of the prices at which said pictures and frames are regularly and customarily offered for sale and sold in the normal and usual course of business.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-91; Filed, January 6, 1939; 3:25 p. m.]

[Docket No. 3235]

IN THE MATTER OF SEYON PRODUCTS COMPANY, INC., ETC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* Representing in any manner that medicinal preparations designated "Seyon Fluid", "Seyon Ointment" and "Seyon Lax-O-Tabs", or any other preparations with same or similar ingredients or properties, separately or in any combination with each other, constitute remedies or cures for neuritis, lumbago, rheumatism, etc., or will relieve or stop pain incident to such diseases, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Seyon Products Company, Inc., etc., Docket 3235, December 21, 1938]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, sale and distribution of various medicinal preparations designated "Seyon Fluid", "Seyon Ointment" and "Seyon Lax-O-Tabs", or of any other preparations with same or similar ingredients or properties, that "Seyon Ointment" is a competent and effective preventive of colds or treatment for headaches or for head and chest colds, or is more than a palliative furnishing temporary relief from pain due to such conditions, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Seyon Products Company, Inc., etc., Docket 3235, December 21, 1938]

SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Laboratory:* SEC. 3.96 (b) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer.* Representing, in connection with the sale, etc., of medicinal preparations designated "Seyon Fluid", "Seyon Ointment", "Seyon Lax-O-Tabs", or any other preparations with same ingredients or properties, through use of word "laboratories" in his trade name, or in any other manner, etc., that he manufactures and compounds said preparations, or that they have been tested and approved by a laboratory, until and unless he actually owns and operates a manufacturing plant wherein such products are so manufactured and are so tested by him, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Seyon Products Company, Inc., etc., Docket 3235, December 21, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF EARL C. NOYES, INDIVIDUALLY, AND TRADING AS SEYON PRODUCTS COMPANY, INC., AND AS END-O-CORN LABORATORIES, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, respondent not having filed answer, and testimony, stipulation, exhibits and other evidence taken before Edward E. Reardon, an examiner for the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed herein by Carrel F. Rhodes, counsel for the Commission, no brief having been filed by respondent, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Earl C. Noyes, individually, and trading as Seyon Products Company, Inc., and as End-O-Corn Laboratories, Inc., or under any other trade name, his agents, representatives, or employees, in connection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia of various medicinal preparations now designated "Seyon Fluid", "Seyon Ointments", "Seyon Lax-O-Tabs" or any other preparations containing the same or similar in-

[1] 2 F. R. 2532 (2944 DI).

gredients or possessing the same or similar properties, whether sold under those names or any other names, do forthwith cease and desist, directly or through any corporate or other device, from:

1. Representing in any manner that said preparations, separately or in any combination with each other, constitute remedies or cures for neuritis, lumbago, sciatica, neuralgia, arthritis, or rheumatism, or will relieve or stop pain incident to such diseases;

2. Representing that Seyon Ointment is a competent and effective preventive of colds or is a competent and effectve remedy or treatment for headaches or for head and chest colds, or is more than a palliative furnishing temporary relief from pain due to such condition;

3. Representing, through the use of the word "laboratories" in his trade name, or in any other manner, or through any other means or device, that he manufactures and compounds various preparations sold by him, or that said preparations have been tested and approved by a laboratory until and unless he actually owns and operates, or directly and absolutely controls, a manufacturing plant wherein such products are so manufactured and are so tested by him.

It is further ordered, That the respondent shall, within sixty days after the service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-93; Filed, January 7, 1939; 10:22 a. m.]

[Docket No. 3459]

IN THE MATTER OF BONDED JEWELERS OF AMERICA, ET AL.

SEC. 3.6 (a) (2a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Bonded business:* SEC. 3.96 (b) (1) *Using misleading name—Vendor—Bonded Business.* Falsely representing, in connection with the sale, etc., of rings, watches, and other jewelry products, through use of trade name "Bonded Jewelers of America", or any other words of similar import or meaning, or in any other manner, that business operated by respondents is bonded, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Bonded Jewelers of America et al., Docket 3459, December 21, 1938]

SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer.* Representing, in connection with the sale, etc., of rings, watches, and other jewelry products, that respondents, or either of them, are the manufacturers of the products sold by them, unless and until they actually own and operate, or control, the manufacturing plant wherein such products are manufactured by them, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Bonded Jewelers of America et al., Docket 3459, December 21, 1938]

SEC. 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product.* Representing, etc., rings as "finished with white gold", or "white gold finish", or any word or words of similar import and meaning, unless such are the facts, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Bonded Jewelers of America et al., Docket 3459, December 21, 1938]

SEC. 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods.* Representing, etc., in connection with the sale, etc., of rings, watches, and other jewelry products, articles of merchandise regularly included in a combination offer with other articles of merchandise as "free", "included free", or "included free of extra charge", or using, in connection with the sale, etc., of said products, the word "free" to describe, etc., goods, wares or merchandise forming a part of any combination offer unless all of the terms and conditions of such offer are clearly and unequivocally stated in immediate connection, etc., with word "free" in words, letters and figures of equal conspicuousness and there is no deception as to the price, quality, character or any other feature of any of the items in the offer, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Bonded Jewelers of America et al., Docket 3459, December 21, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF EDWARD W. BULLOCK, INDIVIDUALLY, AND TRADING AS BONDED JEWELERS OF AMERICA, AND GLADYS JOHNSTON, INDIVIDUALLY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents in which answer respondents admit all material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents Edward W. Bullock and Gladys Johnston, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rings, watches, and other jewelry products in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing, through the use of the trade name "Bonded Jewelers of America", or any other words of similar import or meaning, or in any other manner, that the business operated by respondents is bonded, when such is not the fact;

(2) Representing that the respondents, or either of them, are the manufacturers of the products sold by them, unless and until they actually own and operate, or directly and absolutely control, the manufacturing plant wherein such products are manufactured by them;

(3) Representing, designating or describing rings as "finished with white gold", or "white gold finish", or any word or words of similar import and meaning, unless such rings are actually finished in white gold;

(4) Representing, designating or describing, articles of merchandise regularly included in a combination offer with other articles of merchandise as "free", "included free", or "included free of extra charge";

(5) Using the word "free" to describe or to refer to goods, wares or merchandise forming a part of any combination offer unless all of the terms and conditions of such offer are clearly and unequivocally stated in immediate connection or conjunction with the word "free" in words, letters and figures of equal conspicuousness and there is no deception as to the price, quality, character or any other feature of any of the items in the offer.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-94; Filed, January 7, 1939; 10:22 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49770]

INSTRUCTIONS REGARDING CUSTOMS TREATMENT OF PRODUCTS EXPORTED FROM CZECHOSLOVAK AREAS UNDER POLISH AND HUNGARIAN OCCUPATION

DECEMBER 30, 1938.

To Collectors of Customs and Others Concerned:

There is published below a copy of a telegram dispatched to collectors of customs on December 29, 1938, which is self-explanatory.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

State Department having today announced to Treasury Department a change of jurisdiction from Czechoslovak to Polish and Hungarian in those areas now under Polish and Hungarian occupation, products of those areas exported from any country on or after December 30, 1938, shall be regarded as products of Poland and Hungary for the purposes of the marking provisions of the Tariff Act of 1930 and for determining applicable rates of duty. Such areas are to be regarded as parts of Poland and Hungary on and after December 30, 1938 for determining dates of exportation for customs purposes. Give importers all possible notice. Apply provisions article 822 (e) Customs Regulations 1937 [1] in determining dates of exportation.

[F. R. Doc. 39-92; Filed, January 6, 1939; 3:52 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

AMENDMENT OF REGULATIONS GOVERNING THE KLAMATH TRIBAL LOAN FUND

Section 27.22 of Title 25, Chapter 1, Office of Indian Affairs, Department of the Interior, Sub-Chapter E, Part 27, Klamath Tribal Loan Fund, which reads:

SEC. 27.22 *Five Percent Surcharge on Industrial, Agricultural, or Commercial Loans.* The loan board shall require each person borrowing from the loan fund for industrial, agricultural, or commercial purposes, to deposit with the superintendent at the time of receipt of the first advance upon his loan, an amount equal to five percent of his total approved loan to cover administrative expenses and other carrying charges incident to the making and subsequent safeguarding of the loan. The superintendent shall deposit all such collections in the Treasury of the United States to the credit of the loan fund.

is amended to read:

SEC. 27.22 *Five Percent Surcharge* The loan board may require the borrower to deposit with the superintendent at the time of receiving the first advance of the loan, an amount equal to five percent of the total approved loan to cover administrative expenses incident to the transactions; provided, no surcharge shall be required if the borrower is aged, infirm, or permanently incapacitated and the loan is to be used for maintenance and support. All surcharges collected shall be deposited by the superintendent in the Treasury of the United States to the credit of the loan fund.

OSCAR L. CHAPMAN,
Assistant Secretary.

NOVEMBER 18, 1938.

[F. R. Doc. 39-97; Filed, January 7, 1939; 10:24 a. m.]

BLACKFEET RESERVATION, MONTANA

ORDER OF RESTORATION

Whereas, pursuant to authority contained in the act of Congress approved March 1, 1907 (34 Stat. 1015–1039), certain townsites were established within the Blackfeet Indian Reservation, Montana, and

Whereas, the Tribal Council, the Superintendent of the Blackfeet Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership certain areas of the lands involved.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by sections 3 and 7 of the act of June 18, 1934 (48 Stat. L. 984), I hereby find that restoration to tribal ownership of the lands hereinafter described, which are now included in the townsites listed below, will be in the public interest, and, subject to any valid existing rights, the said lands are hereby restored to tribal ownership, for the use and benefit of the Indians of the Blackfeet Tribe of the Blackfeet Reservation, Montana, and are added to and made a part of the existing reservation:

Townsite	*Block No.*	*Lot No.*
Browning	3	1
Browning	8	1
Browning	39	1 to 4, inclusive, 6 to 14, inclusive, 16 to 20, inclusive.
Browning	48	1 to 10, inclusive.

Galbreath (Peskan)—Entire townsite covering E½NW¼ Sec. 7, T. 37 N., R. 12 W., P. M.

Seville—Entire townsite covering E½SE¼, SE¼NE¼ of Sec. 8, and W½SW¼, SW¼NW¼ of Sec. 9, T. 33 N., R. 7 W., P. M.

HARRY SLATTERY,
Acting Secretary.

DECEMBER 21, 1938.

[F. R. Doc. 39-95; Filed, January 7, 1939; 10:24 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4880]

INCOME TAX

REGULATONS WITH RESPECT TO THE TAXATION OF FRENCH CITIZENS AND FRENCH CORPORATIONS AS AFFECTED BY THE CONVENTION AND PROTOCOL ON DOUBLE TAXATION BETWEEN THE UNITED STATES AND THE REPUBLIC OF FRANCE, PROCLAIMED BY THE PRESIDENT OF THE UNITED STATES APRIL 16, 1935, EFFECTIVE JANUARY 1, 1936

To Collectors of Internal Revenue and Others Concerned:

Part I

PARAGRAPH A. The convention and protocol, proclaimed by the President of the United States on April 16, 1935, provides in part as follows:

ARTICLE I

Enterprises of one of the contracting States are not subject to taxation by the other contracting State in respect of their industrial and commercial profits except in respect of such profits allocable to their permanent establishments in the latter State.

No account shall be taken, in determining the tax in one of the contracting States, of the purchase of merchandise effected therein by an enterprise of the other State for the purpose of supplying establishments maintained by such enterprise in the latter State.

ARTICLE II

American enterprises having permanent establishments in France are required to submit to the French fiscal administration the same declarations and the same justifications, with respect to such establishments, as French enterprises.

The French fiscal administration has the right, within the provisions of its national legislation and subject to the measures of appeal provided in such legislation, to make such corrections in the declaration of profits realized in France as may be necessary to show the exact amount of such profits.

The same principle applies mutatis mutandis to French enterprises having permanent establishments in the United States.

ARTICLE III

Income which an enterprise of one of the contracting States derives from the operation of aircraft registered in such State and engaged in transportation between the two States is taxable only in the former State.

ARTICLE IV

When an American enterprise, by reason of its participation in the management or capital of a French enterprise, makes or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with a third enterprise, any profits which should normally have appeared in the balance sheet of the French enterprise, but which have been, in this manner, diverted to the American enterprise, are, subject to the measures of appeal applicable in the case of the tax on industrial and commercial profits, incorporated in the taxable profits of the French enterprise.

The same principle applies mutatis mutandis, in the event that profits are diverted from an American enterprise to a French enterprise.

* * * * *

ARTICLE VII

Compensation paid by one of the contracting States to its citizens for labor or personal services performed in the other State is exempt from tax in the latter State.

[1] 2 F. R. 1620 (1909 DI).

ARTICLE VIII

War pensions paid by one of the contracting States to persons residing in the territory of the other State are exempt from tax in the latter State.

ARTICLE IX

The following classes of income paid in one of the contracting States to a corporation of the other State, or to a citizen of the latter State residing there, are exempt from tax in the former State;

(a) amounts paid as consideration for the right to use patents, secret processes and formulas, trade marks and other analogous rights;
(b) income received as copyright royalties;
(c) private pensions and life annuities.

ARTICLE X

* * * * *

The Agreement shall become effective on the first day of January following the exchange of ratifications and shall remain effective for a period of five years, and thereafter until twelve months from the date on which either Contracting Party gives notice of its termination.

* * * * *

PROTOCOL

At the moment of signing the Convention on Double Taxation between the United States of America and the Republic of France, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have agreed, as follows:

(1) The taxes referred to in this Agreement are:

(a) for the United States:
the Federal income tax—but it is understood that Article 1 does not exempt from tax (1) compensation for labor or personal services performed in the United States; (2) income derived from real property located in the United States, or from any interest in such property, including rentals and royalties therefrom, and gains from the sale or the disposition thereof; (3) dividends; (4) interest.
(b) for France:

in Articles I, II, III and IV, the tax on industrial and commercial profits (impot sur les benefices industriels et commerciaux);
in Articles III, V and VI, the tax on income from securities (impot sur les revenus des valeurs mobilieres);
in Articles VII, VIII and IX, the tax on wages and salaries, pensions and life annuities (impot sur les traitements et salaries, pensions et rentes viageres), and other schedular taxes (impots cedulaires) appropriate to the type of income specified in said articles;

(2) The provisions of this Agreement shall not be construed to affect in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) As used in this Agreement:

(a) The term "permanent establishment" includes branches, mines and oil wells, factories, workshops, warehouses, offices, agencies, and other fixed places of business, but does not include a subsidiary corporation.
When an enterprise of one of the States carries on business in the other State through an agent established there who is authorized to contract for its account, it is considered as having a permanent establishment in the latter State.
But the fact that an enterprise of one of the contracting States has business dealings in the other State through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the latter State.
(b) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership (societe en nom collectif), corporation (societe anonyme), or any other entity.
(c) The term "enterprise of one of the contracting States" means, as the case may be, "American enterprise" or "French enterprise."
(d) The term "American enterprise" means an enterprise carried on in the United States by a citizen of the United States or by an American corporation or other entity; the term "American corporation or other entity" means a partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.
(e) The term "French enterprise" is defined in the same manner, mutatis mutandis, as the term "American enterprise."
(f) The American corporations mentioned in Articles V and VI are those which, owing to their form of organization, are subject to Article 3 of the Decree of December 6, 1872. The present Agreement does not modify the regime of "abonnement" for securities.
(g) The term "United States," when used in a geographical sense, includes only the States and the Territories of Alaska and Hawaii, and the District of Columbia.
(h) The term "France," when used in a geographical sense, indicates the country of France, exclusive of Algeria and the Colonies.

PARAGRAPH B. The Proclamation of the convention by the President of the United States on April 16, 1935, reads in part as follows:

And whereas, the said convention and protocol have been ratified on both parts, and the ratifications of the two Governments were exchanged at Paris on the ninth day of April, one thousand nine hundred and thirty-five;

And whereas, it is stipulated in Article X of the said convention that the convention shall become effective on the first day of January following the exchange of ratifications, that is to say on the first day of January, one thousand nine hundred and thirty-six;

Now, therefore, be it known that I, Franklin D. Roosevelt, President of the United States of America, have caused the said convention and the said protocol to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof on and from the first day of January, one thousand nine hundred and thirty-six.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this sixteenth day of April in the year of our Lord one thousand nine hundred and thirty-five, and of the Independence of the United States of America the one hundred and fifty-ninth.

[SEAL] FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL,
Secretary of State.

PARAGRAPH C. Section 22 (b) (7), Revenue Act of 1938, provides in part as follows:

SEC. 22. *Gross income.*

* * * * *

(b) *Exclusions From Gross Income.*—The following items shall not be included in gross income and shall be exempt from taxation under this title:

* * * * *

(7) *Income Exempt Under Treaty.*—Income of any kind, to the extent required by any treaty obligation of the United States:

Pursuant to the provisions of section 62 of the Revenue Act of 1938, the following regulations are hereby prescribed to carry into effect the quoted provisions of the convention and protocol, or treaty, between the United States of America and the Republic of France, hereinafter referred to as the convention, for taxable years beginning after December 31, 1937:

Part II

Effect of the Convention Upon the Determination of United States Taxable Income of French Citizens and French Corporations

ART. 1. *General.*—The primary purposes of the convention are to regulate the method of taxation of corporations of either of the contracting States carrying on industrial or commercial activities through a permanent establishment or a subsidiary corporation in the other State and to avoid double taxation upon certain special classes of income.

The specific classes of income relieved from United States income tax are:

(a) Industrial and commercial profits of a French enterprise having no permanent establishment in the United States.

(b) Income derived by a French enterprise from the operation of aircraft registered in France and engaged in transportation between the United States and France.

(c) Compensation paid by France to its citizens for labor or personal services performed in the United States.

(d) War pensions paid by France to persons residing in the United States.

(e) Income paid to a French corporation, or to a citizen of France residing in France.

(1) as consideration for the right to use patents, secret processes and formulas, trade marks and other analogous rights;

(2) as copyright royalties;

(3) as private pensions and life annuities.

Except as to those items of income expressly exempted by the convention, the tax liability of French citizens, not residents of the United States, and French corporations, is determined in accordance with the provisions of the revenue laws of the United States and the regulations thereunder applicable generally to nonresident alien individuals and to foreign corporations.

The convention does not affect the liability to tax of French citizens resident in the United States unless and to the extent such citizens are entitled to the benefits of Article VII or VIII of the convention. See Articles 5 and 6 of these regulations. The tax liability of a United States citizen or United States resident, a member of a French partnership carrying on a French enterprise, is not affected by Article I of the convention. Such citizen or resident is subject to United States income tax upon his distributive share of its net income even though the other members of such partnership are not subject to tax upon their

share of the partnership's industrial and commercial profits from sources within the United States.

The convention has no reference to the rates of taxation imposed by the respective countries and concerns only the determination of income arising in one of the contracting States to citizens or corporations of the other contracting State and subject to taxation in the former State.

These regulations are limited to a consideration of the factors involved in the application of : (a) the provisions of the conventions alone; and (b) the provisions of the conventions as extended by the Revenue Act of 1938. These regulations are not concerned with Article V or VI of the convention as such Articles affect only the application of certain French tax laws and decrees.

ART. 2. *Definitions.*—Any word or term used in these regulations which is defined in the convention shall be given the definition assigned to such word or term in such convention. Any word or term used in these regulations which is not defined in the convention but is defined in the Revenue Act of 1938 shall be given the definition contained in the Revenue Act.

The term "permanent establishment" includes branches, mines and oil wells, factories, work shops, warehouses, offices, agencies and other fixed places of business. A French enterprise, as defined in the convention, carrying on business in the United States through an agent established there who is authorized to contract for its account, is considered to have a permanent establishment in the United States. However, the carrying on of business dealings in the United States by a French enterprise through a bona fide commission agent or broker does not constitute a permanent establishment in the United States. A French corporation doing business in the United States through a domestic subsidiary corporation has not, merely by reason of such fact, a permanent establishment in the United States.

The term "enterprise" means any commercial or industrial undertaking whether conducted by an individual, partnership, corporation or any other entity. It includes such activities as manufacturing, merchandising, mining, banking and insurance. It does not include the operation of, or the trading in, real property located in the United States. It does not include the rendition of personal services. Hence, a French citizen rendering personal services within the United States is not, merely by reason of such service, engaged in an enterprise within the meaning of the convention and his liability to Federal income tax is unaffected by Article I of the convention.

The term "French enterprise" means an enterprise carried on in France by a citizen of France or by a French corporation or other entity. The term "French corporation or other entity" of the convention means a partnership, corporation or other entity created or organized in France or under the law of France. If, for example, a French citizen or French corporation does not carry on an enterprise in France it is not a French enterprise within the meaning of the convention even though it carries on an enterprise in some other foreign country and hence such enterprise is not relieved by the convention from United States income tax upon its industrial and commercial profits from sources within the United States even though it has no permanent establishment therein.

The term "industrial and commercial profits" means the profits arising from the industrial, mercantile, or manufacturing or like undertakings of a French enterprise, as defined in this Article. For the purpose of the exemption under Article I of the convention such term does not include gains from the sale or exchange within the United States of capital assets as defined in section 117 of the Revenue Act of 1938 unless it can be shown by clear and convincing evidence that such sale or exchange was incident, and had a necessary relation, to the commercial and industrial activities of the French enterprise. For treatment of such gains under the Revenue Act of 1938, see Articles 8 (b) and 9 (b). Such term does not include dividends, interest, compensation for labor or personal services, or income derived from real property or from any interest in such property including rentals and royalties therefrom and gains from the sale or disposition thereof.

ART. 3. *Scope of convention with respect to determination of taxable income of French citizen or a French corporation carrying on a French enterprise in the United States.*—

(a) *General.*—Article I of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable in the other contracting State in respect of its industrial and commercial profits unless it has a permanent establishment in the latter State. Hence, a French enterprise is subject to tax upon its industrial and commercial profits from sources within the United States only if it has a permanent establishment within the United States. From the standpoint of Federal income taxation the Article has application only to a French enterprise and to the industrial and the commercial income thereof from sources within the United States. It has no application to compensation for labor or personal services performed in the United States, nor to income derived from real property located in the United States, or from any interest in such property, including rentals and royalties therefrom, and gains from the sale or the disposition thereof, nor to dividends or interest. Such latter items of income are, except as otherwise provided in the convention and in these regulations, subject to tax as income of French citizens or French corporations, in the same manner and subject to the same provisions as are applicable to other nonresident aliens and foreign corporations. As to what is a "French enterprise", a "permanent establishment", and "industrial and commercial profits", see Article 2.

(b) *No United States permanent establishment.*—A French citizen or a French corporation carrying on a French enterprise but having no permanent establishment in the United States is not subject to United States income tax upon its industrial and commercial profits from sources within the United States. As to what constitutes a "French enterprise" see Article 2. As to what constitutes "industrial and commercial profits" see Article 2. For example, if such French corporation sells stock in trade, such as wine or cosmetics, through a bona fide commission agent or broker in the United States, the resulting profit is, under the terms of the convention, relieved from United States income tax. Such French corporation, however, remains subject to tax upon all other items of income from sources within the United States and not expressly exempted from such tax under the convention. However, under the provisions of Article IX of the convention the following items, otherwise taxable, paid to citizens of France residing in France, or to French corporations, are expressly exempt from the tax:

(1) Amounts paid as consideration for the right to use patents, secret processes, and formulas, trade marks and other analogous rights;

(2) Income received as copyright royalties;

(3) Private pensions and life annuities.

The exemption as to such items does not extend to French citizens residing elsewhere than in France nor to individuals residing in France who are not citizens of France.

(c) *United States permanent establishment.*—A French citizen or a French corporation carrying on a French enterprise which has a permanent establishment in the United States is subject to tax upon his or its entire net income (including industrial and commercial profits) from sources within the United States, subject to the exemptions expressly provided for in Article IX of the convention. See Article 7. In the determination of the income of such French citizen or corporation from sources within the United States all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment within the United States. The net income from sources within the United States of such enterprise will be determined in accordance with the provisions of section 119, Revenue Act of 1938. In determining such income no account shall be taken of the purchase of goods, wares, or merchandise within the United States for the purpose of supplying establishments

of the enterprise maintained by such citizen or corporation in France.

A French citizen or corporation carrying on a French enterprise having business dealings in the United States through a bona fide commission agent or broker therein has not, merely by reason of such transactions, a permanent establishment in the United States and hence is relieved by the convention from United States income tax upon his industrial and commercial profits arising from such transactions. However, a French citizen or French corporation not carrying on a French enterprise, having business dealings in the United States through a bona fide commission agent or broker is not by the convention relieved from United States income tax on the resulting profit. Such French citizen or French corporation is subject to tax upon the income resulting from such transactions in the same manner and subject to the same provisions and exceptions, under the Revenue Act of 1938, as are applicable to other nonresident aliens and foreign corporations. See Articles 8 (a) and 9. For definition of the terms "French enterprise", "Permanent establishment", and "commercial and industrial profits", see Article 2.

ART. 4. *Control of a domestic enterprise by a French enterprise.*—Article IV of the convention provides that if a French enterprise by reason of its control of a domestic business imposes conditions different from those which would result from normal bargaining between independent enterprises, the accounts between the enterprises will be adjusted so as to ascertain the true net income of the domestic enterprise. The purpose is to place the controlled domestic enterprise on a tax parity with an uncontrolled domestic enterprise by determining, according to the standard of an uncontrolled enterprise, the true net income from the property and business of the controlled enterprise. The convention contemplates that if the accounting records do not truly reflect the net income from the property and business of such domestic enterprise the Commissioner shall intervene and, by making such distributions, apportionments or allocations as he may deem necessary of gross income or deductions or of any item or element affecting net income as between such domestic enterprise and the French enterprise by which it is controlled or directed, determine the true net income of the domestic enterprise.

ART. 5. *Compensation paid by the Republic of France to its citizens for services rendered in the United States.*—Under Article VII of the convention, French citizens are relieved from United States income tax upon wages, fees, salary, remunerations or other amounts paid by the Republic of France to its citizens as compensation for labor or personal services performed in the United States. Such exemption is effective on and after January 1, 1936. The character of the services has no bearing upon the exemption from the tax and hence the test set forth in section 116 (h) (1) (B), Revenue Act of 1938, has no application in so far as the year 1938 and subsequent years are concerned.

ART. 6. *War pensions.*—Under Article VIII of the convention, war pensions paid by the Republic of France to persons residing in the United States are exempt from United States income tax. The term "war pensions", for the purposes of these regulations, includes pensions received under the provisions of the French Military Pensions Act of March 31, 1919, or for the services of the beneficiary or another in the military or naval forces of the Republic of France in time of war. It is not necessary that the recipient of such pension be a citizen of France. Such pension in the hands of a United States citizen recipient, if residing in the United States, is exempt from tax.

ART. 7. *Patents, formulas and copyright royalties, pensions and annuities.*—The following items of income paid to a corporation organized under the laws of France or to a citizen of France residing in France are exempt from Federal income tax under the provisions of Article IX of the convention:

(a) Amounts paid as consideration for the right to use patents, secret processes and formulas, trade marks and other analogous rights;

(b) Income received as copyright royalties;

(c) Private pensions and life annuities.

Such items are, therefore, not subject to the withholding provisions of the Revenue Act of 1938. To avoid withholding of the tax at the source the French citizen or corporation, as the case may be, should notify by letter the payor thereof that such income is exempt from taxation under the provisions of the convention. Such letter from a citizen of France shall contain his address and a statement that he is a citizen of France residing in France. The letter from such corporation shall contain the address of its office or place of business and a statement that it is a corporation organized under the laws of the Republic of France, and shall be signed by an officer of the corporation, giving his official title. The letter of notification, or a copy thereof, should be immediately forwarded by the recipient to the Commissioner of Internal Revenue, Sorting Section, Washington, D. C.

Part III

Tax Liability of French Citizens and French Corporations Under the Revenue Act of 1938, as Modified by the Convention

ART. 8. Taxation of a French citizen (not a resident of the United States) under the Revenue Act of 1938, as modified by the convention.

General.—A French citizen, not a resident of the United States, is subject to the provisions of the Revenue Act of 1938 applicable to nonresident alien individuals generally, but such citizen is entitled to the exemptions provided in the convention to which other nonresident aliens are not entitled. Section 211 of the Revenue Act of 1938 classifies nonresident alien individuals into three classes: (1) nonresident alien individuals not engaged in trade or business within the United States and not having an office or place of business therein at any time during the taxable year, and deriving in the taxable year not more than $21,600 gross amount of fixed or determinable annual or periodical income from sources within the United States; (2) nonresident alien individuals not engaged in trade or business within the United States and not having an office or place of business therein at any time during the taxable year and deriving in the taxable year more than $21,600 gross amount of fixed or determinable annual or periodical income from sources within the United States; and (3) nonresident alien individuals who at any time during the taxable year are engaged in trade or business in the United States or have an office or place of business therein.

Whether a nonresident alien has an "office or place of business" within the United States depends upon the facts of the particular case. The term "office or place of business", however, implies a place for the regular transaction of business and does not include a place where casual or incidental transactions might be, or are, effected.

While Article I of the convention (in so far as concerns individuals) applies only to French citizens carrying on a French enterprise and has no application to those not carrying on such enterprise, section 211 makes no distinction between the two classes, and applies alike to both groups.

This Article treats of the taxation of French citizens, not resident in the United States, under section 211, Revenue Act of 1938, as modified by the convention, following the classification prescribed in that section.

(a) *No United States business or office—General rule.*—A French citizen, not a resident of the United States, coming within class (a) of the classification prescribed in section 211 (whether or not he carries on a French enterprise), is liable to the tax at the rate of 10 percent, imposed by section 211 (a), Revenue Act of 1938, upon the gross amount of his fixed or determinable annual or periodical gains, profits and income from sources within the United States. Such gains, profits and income are to be determined under the provisions of section 119, Revenue Act of 1938. Specific items of fixed or determinable annual or periodical income are enumerated in the Act as interest (except interest on deposits with persons carrying on the banking business which is nontaxable under the Act), dividends, rents, salaries, wages, premiums, annuities, compensation, remunerations and emol-

uments, but other fixed or determinable annual or periodical gains, profits and income are also subject to the tax, as, for instance, royalties. However, a French citizen who is a resident of France is not taxable upon those items of income enumerated in Article IX of the convention and in Article 3 (b) of these regulations. See Article 7.

The term "fixed or determinable annual or periodical income" within the meaning of section 211 (a) does not include industrial and commercial profits as that term is used in the convention. Under the Revenue Act of 1938, as modified by the convention, a French citizen coming within section 211 (a) or section 211 (c) of that Act is exempt from United States income tax on industrial and commercial profits. For example, the convention exempts from tax profits realized by such French citizen who carries on a French enterprise from transactions in the United States in goods, wares or merchandise through a resident broker or commission agent. If, however, such citizen does not carry on such enterprise such transactions are not exempt under the convention and constitute engaging in trade or business within the United States and he is accordingly taxable upon the profit resulting from such transactions under section 211 (b), Revenue Act of 1938. On the other hand, a French citizen, not a resident of the United States, but taxable under section 211 (a) of the Act, whether or not he carries on a French enterprise, is not liable to United States income tax upon profits realized from transactions in stocks, securities or commodities in the United States through a resident broker, commission agent, or custodian. However, a French citizen who performs personal services in the United States at any time within the taxable year is liable to the tax upon profits arising from transactions in stocks, securities or commodities, except where it can be shown that such citizen is only temporarily present in the United States and meets the other conditions with respect to personal service laid down in section 211 (b), Revenue Act of 1938. As to when such profits constitute "industrial and commercial profits", see Article 2. As to withholding of the tax at the source, see section 143, Revenue Act of 1938.

(b) *No United States business or office—Aggregate more than $21,600.*—A French citizen, not a resident of the United States, coming within class (c) of the classification prescribed in section 211 (whether or not he carries on a French enterprise) is, under the provisions of section 211 (c), subject to tax only upon his fixed or determinable annual or periodical income specified in section 211 (a) determined under the provisions of section 119, minus (1) the deductions properly allocable to such income and (2) the so-called "charitable contributions" deduction provided in section 213 (c). Such nonresident alien is entitled to the credits against net income allowable to an individual by section 25, subject to the limitations provided in section 214. However, the tax thus computed under sections 11 and 12 shall in no such case be less than 10 percent of the gross amount of such fixed or determinable annual or periodical income from sources within the United States.

(c) *United States business or office.*—A French citizen not a resident of the United States and not carrying on a French enterprise, coming within class (b) of the classification prescribed in section 211, or a French citizen carrying on a French enterprise and who has a permanent establishment in the United States is, like other nonresident aliens, liable to the normal tax of 4 percent imposed by section 11 of the Act and to the graduated surtax imposed by section 12 (b) of the Act, upon his net income from sources within the United States (gross income from sources within the United States minus the statutory deductions provided in sections 23 and 213) less the credits against net income allowed an individual by section 25. Such net income includes all industrial and commercial profits from sources within the United States. Such net income is to be determined under the provisions of section 119, Revenue Act of 1938, but in determining such income no account shall be taken of the purchase of merchandise within the United States for the purpose of supplying establishments of the enterprise, if any, maintained by such citizen in France. In the determination of the income of such French citizen from sources within the United States all industrial and commercial profits from sources within the United States shall be deemed to be allocable to his permanent establishment within the United States. If, however, such French citizen is a resident of France, he is not taxable upon those items of income enumerated in Article IX of the convention and referred to in paragraph (a) of this Article with respect to French citizens subject to tax under section 211 (a). See Article 7.

A French citizen having an office or place of business within the United States within the meaning of section 211 of the Revenue Act of 1938, shall be presumed (if he carries on a French enterprise) to have a permanent establishment in the United States within the meaning of the convention.

A French citizen carrying on a French enterprise who carries on business transactions through a bona fide commission agent or broker in the United States and who has no permanent establishment in the United States is not liable to income tax on the industrial and commercial profits arising to him from such transactions. However, a French citizen not carrying on a French enterprise is held to be engaged in trade or business in the United States if he sells therein through a commission agent or broker goods, wares or merchandise (not including stocks, securities or commodities) and, hence, is liable to income tax on the resulting profit. Such French citizen, whether or not he carries on a French enterprise, coming within class (a) or class (c) of the classification prescribed in section 211 of the Revenue Act of 1938 is, however, not liable to the tax upon profits arising from transactions in stocks, securities or commodities through a resident broker, commission agent or custodian. As to what constitutes a "French enterprise", see Article 2. As to what constitutes a "permanent establishment", see Article 2.

As to the computation of gross income, the allowance of deductions and credits, the requirements as to filing of returns and payment of the tax in the case of nonresident aliens generally, including French citizens, see sections 211 to 219, inclusive, Revenue Act of 1938.

(d) *Member of French partnership.*—Whether the liability to the tax of a French citizen who is a member of a partnership is affected by Article I of the convention depends upon the status of the partnership. Article I does not apply unless such partnership: (1) is created or organized in France; and (2) carries on a French enterprise. Thus, a partnership created or organized in the United States, even though composed in whole or in part of French citizens, is not a French enterprise and hence is not affected by the convention. A French citizen, not resident in the United States, a member of such partnership, is taxable under the provisions of section 211 as are other nonresident aliens. If, however, such French citizen is a member of a partnership meeting the tests set forth in this paragraph, the United States tax liability of such French citizen shall be determined as provided in paragraph (a) or (b) or (c) of this Article, whichever is applicable, dependent upon whether or not the partnership has a permanent establishment in the United States.

ART. 9. Taxation of a French corporation under the Revenue Act of 1938 as modified by the convention.

General.—A corporation organized under the laws of France is subject to those provisions of the Revenue Act of 1938 applicable to foreign corporations generally but such corporation is entitled to the exemptions provided in the convention to which other foreign corporations are not entitled.

Section 231 of the Revenue Act of 1938 classifies foreign corporations into two groups: (1) those not engaged in trade or business within the United States and not having an office or place of business therein (hereinafter referred to as nonresident foreign corporations); and (2) those which at any time within the taxable year are engaged in trade or business within the United States or have an office or place of business therein (hereinafter referred to as resident foreign corporations).

Whether a foreign corporation has an "office or place of business" within the United States depends upon the facts

of the particular case. The term "office or place of business", however, implies a place for the regular transaction of business and does not include a place where casual or incidental transactions might be, or are, effected.

While Article I of the convention, in so far as corporations are concerned, applies only to French corporations carrying on a French enterprise and has no application to those not carrying on such enterprise, section 231 makes no distinction between the two classes, such section applying alike to both groups.

This Article treats of the taxation of French corporations under that section, as modified by the convention, following the classification prescribed in that section.

(a) *Nonresident French corporations.*—A French corporation (whether or not it carries on a French enterprise) not engaged in trade or business within the United States and not having an office or place of business therein at any time within the taxable year is liable to the tax at the rate of 15 percent (10 percent in the case of dividends) imposed by section 231 (a), Revenue Act of 1938, upon the gross amount of its fixed or determinable annual or periodical gains, profits and income from sources within the United States. Such gains, profits and income are to be determined under the provisions of section 119, Revenue Act of 1938. Specific items of fixed or determinable annual or periodical income are enumerated in the Act as interest (except interest on deposits with persons carrying on the banking business which is nontaxable under the Act), dividends, rents, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, but other fixed or determinable annual or periodical gains, profits and income are also subject to tax, as, for instance, royalties. However, a French corporation is not taxable upon those items of income enumerated in Article IX of the convention and referred to in Article 8 (a) with respect to French citizens subject to tax under section 211 (a), Revenue Act of 1938. See Article 7.

The term "fixed or determinable annual or periodical income" within the meaning of section 231 (a), Revenue Act of 1938, does not include industrial and commercial profits as that term is used in the convention. Under the Revenue Act of 1938 as modified by the convention a French corporation taxable under section 231 (a) of that Act is exempt from United States income tax on industrial and commercial profits. For example, under the convention profits realized by such French corporation, which carries on a French enterprise, from transactions in the United States in goods, wares or merchandise through a resident broker or commission agent are not subject to tax. If, however, such corporation does not carry on such enterprise such transactions are not exempt under the convention and constitute engaging in trade or business within the United States and it is accordingly taxable upon the resulting profit under section 231 (b), Revenue Act of 1938. On the other hand, a French corporation taxable under section 231 (a), whether or not it carries on a French enterprise, is not liable to United States income tax upon profits realized from transactions in stocks, securities or commodities in the United States through a resident broker, commission agent or custodian.

(b) *Resident French corporations.*—A French corporation, not carrying on a French enterprise, which at any time within the taxable year is engaged in trade or business within the United States or has an office or place of business therein, or a French corporation, carrying on a French enterprise, which has a permanent establishment in the United States, is, like other foreign corporations, liable to the tax of 19 percent imposed by section 14 (e), Revenue Act of 1938, upon its special class net income from sources within the United States (gross income from sources within the United States minus the statutory deductions provided in sections 23 and 232 and the credits provided in sections 26 (a) and (b) of the Revenue Act of 1938. Such net income includes all industrial and commercial profits from sources within the United States. See Article 3 (c). Such net income is to be determined under the provisions of section 119, Revenue Act of 1938, but in determining such income no account shall be taken of the purchase of goods, wares, or merchandise within the United States for the purpose of supplying establishments maintained by such corporation in France. In the determination of the income of such French corporation from sources within the United States all industrial and commercial profits from sources within the United States shall be deemed to be allocable to its permanent establishment within the United States. Such corporation is not taxable upon those items of income enumerated in Article IX of the convention and referred to in paragraph (a) of this Article with respect to nonresident French corporations. See Article 7.

A French corporation having an office or place of business within the United States within the meaning of section 231 of the Revenue Act of 1938, shall be presumed (if it carries on a French enterprise) to have a permanent establishment in the United States within the meaning of the convention.

A French corporation carrying on a French enterprise which carries on business transactions through a bona fide commission agent or broker in the United States and which has no permanent establishment in the United States is not liable to income tax on the industrial and commercial profits arising to it from such transactions. However, a French corporation not carrying on a French enterprise is held to be engaged in trade or business in the United States if it sells therein, through a commission agent or broker, goods, wares or merchandise (not including stocks, securities or commodities) and, hence, is liable to income tax on the resulting profit. Such French corporation, whether or not it carries on a French enterprise, otherwise liable to the tax imposed by subsection (a) of section 231 of the Revenue Act of 1938 is, however, not liable to the tax upon profits arising from transactions in stocks, securities or commodities through a resident broker, commission agent or custodian. As to what constitutes a "French enterprise", see Article 2. As to what constitutes a "permanent establishment", see Article 2. As to the computation of gross income, the allowance of deductions and credits, the requirements as to filing of returns and payment of the tax, in the case of foreign corporations generally, including French corporations, see sections 231 to 236, inclusive, Revenue Act of 1938.

MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, January 5, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-102; Filed, January 7, 1939; 11:16 a. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

[Administrative Order No. 11]

APPOINTMENT OF INDUSTRY COMMITTEE NO. 1A FOR THE WOOLEN INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby appoint for the woolen industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the public: Donald M. Nelson, Chairman, Chicago, Ill.; George W. Taylor, Vice-Chairman, Philadelphia, Pa.; E. N. Allen, Hartford, Conn.; Z. Clark Dickinson, Ann Arbor, Mich., Charles H. Eames, Lowell, Mass.

For the employees: Francis P. Fenton, Boston, Mass.; Louis Guilmet, Lawrence, Mass.; Sidney Hillman, New York City; Emil Rieve, New York City; Horace Riviere, Boston, Mass.;

For the employers: Thurmond Chatham, Winston Salem, N. C.; Willard H. Cummings, Newport, Maine; John H. Halford, Bridgeport, Pa.; Moses Pendleton, New York City; Harold Walter, Uxbridge, Mass.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. As used in this order, the term "woolen industry" means:

(a) The manufacturing or processing of all yarns (other than carpet yarns) spun from wool or animal fibre other than silk; and all processes preparatory thereto.

(b) The manufacturing, dyeing or other finishing of fabrics and blankets (other than carpets, rugs and pile fabrics) woven from yarns spun of wool or animal fibre other than silk.

(c) The manufacturing, dyeing, or other finishing of fulled suitings, coatings, topcoatings, and overcoatings knit from yarns spun of wool or animal fibre other than silk.

(d) The picking of rags and clips made from wool or animal fibre other than silk, and the garnetting of wool or animal fibre other than silk from rags, clips, or mill waste; and other processes related thereto.

(e) The manufacturing of batting, wadding or filling of wool or animal fibre other than silk.

(f) The manufacturing, dyeing or other finishing of the products enumerated above from all mixtures of fibres in which any wool or animal fibre other than silk has been incorporated.

3. The industry committee herein created, or its authorized subcommittee, shall, in conjunction with Industry Committee No. 1, appointed by Administrative Order No. 1, dated September 13, 1938,[1] for the "textile industry" as therein defined, or its authorized subcommittee, considered the problem of precise definition of the respective jurisdictions of the textile industry committee and the woolen industry committee with respect to products enumerated in paragraph 2 which include mixtures of cotton, silk, flax, jute and synthetic fibres or any of them, with wool or animal fibres other than silk, and the industry committee herein created shall recommend to the Administrator such amendment to the definition of the "woolen industry" as is deemed advisable.

4. The industry committee herein created, shall, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, investigate conditions in the woolen industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C., this 7th day of January, 1939.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 39-100; Filed, January 7, 1939; 10:48 a. m.]

[1] 3 F. R. 2313 DI.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 208, REDUCED

SOUTH DAKOTA

DECEMBER 20, 1938.

Departmental order of February 13, 1930, withdrawing certain lands in South Dakota as Stock Driveway No. 208 under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following-described lands:

BLACK HILLS MERIDIAN

T. 8 N., R. 7 E.,
sec. 1, N½,
sec. 2, E½,
sec. 3, W½E½,
sec. 10, W½NE¼ and E½SE¼,
sec. 11, S½SW¼,
sec. 14, W½NW¼;
T. 9 N., R. 7 E.,
sec. 33, W½NW¼ and E½SW¼;
T. 10 N., R 7 E.,
sec. 4, W½SW¼,
sec. 6, NE¼SW¼,
sec. 10, E½SW¼ and W½SE¼,
sec. 15, NW¼;
T. 8 N., R 8 E.,
sec. 6, lot 2, S½NE¼, S½SW¼ and SE¼;
aggregating 2,002.04 acres.

HARRY SLATTERY,
Under Secretary.

[F. R. Doc. 39-96; Filed, January 7, 1939; 10: 24 a. m.]

AIR NAVIGATION SITE WITHDRAWALS REDUCED

DECEMBER 23, 1938.

Under and pursuant to section 4 of the act of May 24, 1928, 45 Stat. 728, departmental orders of September 27, 1935, January 31, 1936, January 26, 1937, and June 11, 1938, withdrawing certain public lands in California, Montana, Utah and Wyoming, for use by the Department of Commerce as air navigation sites, are hereby revoked in so far as they affect the following described lands which are no longer required for such purpose:

CALIFORNIA

San Bernardino Meridian

T. 8 N., R. 17 E., sec. 31, SW¼SW¼NW¼, 10 acres;

MONTANA

Principal Meridian

T. 3 N., R. 9 W., sec. 4, NW¼SE¼ of lot 3, 2.5 acres;

UTAH

Salt Lake Meridian

T. 19 S., R. 7 W., sec. 10, SW¼SW¼, 40 acres;

WYOMING

Sixth Principal Meridian

T. 19 N., R. 103 W., sec. 18, NW¼SE¼NE¼NE¼, 2.5 acres.

HARRY SLATTERY,
Under Secretary.

[F. R. Doc. 39-108; Filed, January 9, 1939; 10:28 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 144, WYOMING NO. 18, ENLARGED

DECEMBER 30, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 144, Wyoming No. 18, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights and to a withdrawal for reclamation purposes affecting a portion of the land:

SIXTH PRINCIPAL MERIDIAN

T. 29 N., R. 79 W., sec. 18, S½ of N½ and N½ of S½;
T. 31 N., R. 81 W., sec. 30, E½ of W½, lots 1, 2 and 3;
aggregating 586.09 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

HARRY SLATTERY,
Under Secretary.

[F. R. Doc. 39-107; Filed, January 9, 1939; 10:28 a. m.]

BUREAU OF RECLAMATION

BOISE PROJECT, IDAHO

FIRST FORM RECLAMATION WITHDRAWAL

OCTOBER 24, 1938.

THE SECRETARY OF THE INTERIOR.

Sir: It is recommended that the following described lands be withdrawn from public entry, under the first form withdrawal as provided in Section 3, Act of June 17, 1902 (32 Stat., 388):

BOISE PROJECT, IDAHO

Boise Meridian

T. 12 N., R. 8 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
T. 13 N., R. 8 E.,
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;

T. 12 N., R. 9 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 20, all;
T. 13 N., R. 9 E.,
Sec. 13, all;
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
T. 12 N., R. 10 E.,
Sec. 6, all;
Sec. 7, all;
Sec. 12, all;
Sec. 13, all;
T. 13 N., R. 10 E. (unsurveyed)
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 35, all;
Sec. 36, all;
T. 12 N., R. 11 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
T. 13 N., R. 11 E., (unsurveyed)
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;

Respectfully,

R. B. WILLIAMS,
Acting Commissioner.

I concur:

HARRY R. BROWN,
Acting Secretary of Agriculture.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
Under Secretary.

DECEMBER 29, 1938.

DECEMBER 23, 1938.

The Honorable, The SECRETARY OF THE INTERIOR.

DEAR MR. SECRETARY: Mr. Slattery's letter of November 9 requesting this Department's approval to the withdrawal of certain lands for use in connection with the Boise Reclamation Project has been received. The lands in question are within the Payette and Challis National Forests.

This Department has no objection to the withdrawal of the entire area covered in your request, provided that roads, trails, telephone lines and other improvements in place, or to be constructed, will be fully protected against loss and that the total withdrawal will be modified where it is subsequently determined that the area is in excess of that actually flooded by the reservoir or required for reclamation works or administrative improvements.

Sincerely,

HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 39-98; Filed, January 7, 1939; 10:25 a. m.]

UPPER SNAKE RIVER PROJECT, IDAHO-WYOMING

FIRST FORM RECLAMATION WITHDRAWAL

OCTOBER 25, 1938.

The SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands, excepting any tract, the title to which has passed out of the United States, be withdrawn from public entry under the first form of withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat., 388).

UPPER SNAKE RIVER PROJECT, IDAHO-WYOMING

Grand Valley or Elk Creek Reservoir Sites, Boise Meridian, Idaho

T. 1 S., R. 45 E.,
Sec. 7, all;
Sec. 8, all;
Sec. 14, SW¼;
Sec. 15, S½;
Sec. 16, SE¼ and W½;
Sec. 17, all;
Sec. 20, NW¼ and E½;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, N½;
Sec. 25, NW¼ and S½;
Sec. 26, all;
Sec. 27, E½;
Sec. 28, N½;
Sec. 29, NE¼;
Sec. 34, NW¼ and E½;
Sec. 35, all;
Sec. 36, all;
T. 2 S., R. 45 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, NE¼;
Sec. 11, NW¼ and E½;
Sec. 12, all;
Sec. 13, all;
Eec. 14, E½;
Sec. 24, NW¼ and E½;
T. 1 S., R. 46 E.,
Sec. 31, SW¼;
T. 2 S., R. 46 E.,
Sec. 6, W½;
Sec. 7, W½;
Sec. 18, all;
Sec. 19, all;
Sec. 20, NW¼ and S½;
Sec. 21, SW¼;
Sec. 27, SW¼;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
T. 3 S., R. 46 E.,
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, SW¼ and E½;
Sec. 8, NW¼ and E½;
Sec. 9, all;
Sec. 10, all;
Sec. 15, all;
Sec. 16, E½;
Sec. 22, all;

Sixth Principal Meridian, Wyoming

T. 37 N., R. 118 W.,
Sec. 14, SE¼; (unsurveyed)
Sec. 18, NW¼ and S½;
Sec. 20, W½ and SE¼;
Sec. 21, S½;
Sec. 22, all; (unsurveyed)
Sec. 23, all; (unsurveyed)
Sec. 19, all;
Sec. 28, NW¼ and S½;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 33, all;

Respectfully,

R. B. WILLIAMS,
Acting Commissioner.

I concur:

HARRY L. BROWN,
Acting Secretary of Agriculture.

The foregoing recommendation is hereby approved and it is so ordered. The Commissioner of the General Land Office is hereby authorized and directed to cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
Under Secretary.

DECEMBER 29, 1938

DECEMBER 23, 1938.

The Honorable The SECRETARY OF THE INTERIOR.

DEAR MR. SECRETARY: Mr. Slattery's letter of November 9 requesting this Department's approval to the withdrawal of certain lands for use in connection with the Upper Snake River Reclamation Project has been received. The lands in question are within the Targhee, Caribou and Wyoming National Forests.

This Department has no objection to the withdrawal of the entire area covered in your request, provided that roads, trails, telephone lines and other improvements in place, or to be constructed, will be fully protected against loss and that the total withdrawal will be modified where it is subsequently determined that the area is in excess of that actually flooded by the reservoir or required for reclamation works or administrative improvements.

Sincerely,

HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 39-99; Filed, January 7, 1939; 10:25 a. m.]

Notices

TREASURY DEPARTMENT.

Office of the Secretary.

[1939—Department Circular No. 1]

VALUES OF FOREIGN MONEYS

JANUARY 1, 1939.

Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning January 1, 1939, expressed in any such foreign monetary units: *Provided, however,* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 39-101; Filed, January 7, 1939; 11:16 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 497-FD]

ORDER IN THE MATTER OF THE APPLICATION OF FAIRMONT COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a session of the National Bituminous Coal Commission held at its Offices in Washington, D. C., on the 5th day of January 1939.

It appearing that the above named applicant, Fairmont Coals, Incorporated, a West Virginia corporation authorized to engage in business in the State of West Virginia, filed its application for provisional approval as a marketing agency on the 9th day of August, 1938, pursuant to Order No. 6 of the Commission,[1] and the matter being assigned to Trial Examiner Hill McCalister, and proper notice having been given,[2] the same came on for hearing before the said Examiner on the 26th day of September, 1938, and at said hearing the applicant having duly appeared and representatives of the

[1] 2 F. R. 1078 (1287 DI).
[2] 3 F. R. 2282 DI.

Values of Foreign Monetary Units (at Par as Regards Gold Units; Nongold Units Have No Fixed Par With Gold)

Country	Monetary unit	Value in terms of United States money	Remarks
Argentine Republic	Peso	$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs.
Bolivia	Boliviano	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis		Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras	Dollar	1.6931	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2½d., or about 29½¢ U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	.5714	Obligation to sell gold suspended Sept. 24, 1931. New gold content of .56424 grams of gold 9/10 fine established by monetary law of Nov. 19, 1938, effective Nov. 30, 1938.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1.0000	By law of May 25, 1934.
Czechoslovakia	Koruna	.0351	By decree of Oct. 9, 1936.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1.6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters).	8.3692	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of Monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937, which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengö	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster		Piaster pegged to French franc at the rate of 1 piaster = 10 French francs; conversion of notes into gold suspended Oct. 2, 1936.
Ireland	Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.8440	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2,522 lati = £100.
Liberia	Dollar	1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations Dec. 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Panama	Balboa	1.6933	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Siam	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Spain	Peseta	.3267	Exchange control established May 18, 1931.
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.

Values of Foreign Monetary Units (at Par as Regards Gold Units; Nongold Units Have No Fixed Par With Gold)—Continued

Country	Monetary unit	Value in terms of United States money	Remarks
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	
Uruguay	Peso	.6583	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931. New gold content of .585018 grams of pure gold per peso established by monetary law of Jan. 12, 1938.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence did, on the 1st day of December, 1938, file, with the Commission, his report and proposed findings of fact, together with the recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 5th day of December, 1938, and more than 15 days having elapsed since the service of said report, no exceptions having been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof, finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the application of the Fairmont Coals, Incorporated, for provisional approval as a marketing agency, be and the same is hereby granted, and the said Fairmont Coals, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 5th day of January, 1939.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 39-89; Filed, January 6, 1939; 12:55 p. m.]

No. 5——3

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of January, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3512]

IN THE MATTER OF FREDERICK CLUTHE, AN INDIVIDUAL, TRADING AS CHARLES CLUTHE & SONS, BLOOMFIELD, NEW JERSEY.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, January 16, 1939, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-103; Filed, January 7, 1939; 11:29 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of January, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3545]

IN THE MATTER OF BEST FOODS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, January 20, 1939, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-104; Filed, January 7, 1939; 11:29 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of January, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3630]

IN THE MATTER OF CORNELIUS P. VAN SCHAACK, JR., INDIVIDUALLY AND TRADING AS MID-WEST SALES SYNDICATE, AND MID-WEST PORTRAIT SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Con-

gress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, January 24, 1939, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-105; Filed, January 7, 1939; 11:29 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of January 1939.

[File No. 1-1882]

IN THE MATTER OF NEW ORLEANS STOCK YARDS, INC., COMMON STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The New Orleans Stock Yards, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to withdraw its Common Stock, $100 Par Value, from listing and registration on the New Orleans Stock Exchange; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted effective at the close of the trading session on January 16, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-109; Filed, January 9, 1939; 11:06 a. m.]

UNITED STATES MARITIME COMMISSION.

APPLICATION OF GRACE LINE, INC., FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACT

ORDER FOR HEARING

At a session of the United States Maritime Commission held at its office in Washington, D. C., on the 5th day of January, A. D. 1939.

It appearing, That the Grace Line, Inc., an American citizen within the definition of the Merchant Marine Act, 1936, and operating vessels of United States registry, has filed an application for an operating-differential subsidy contract covering services on the route between New York, New York, and Curacao and Aruba, N. W. I., La Guaira and Puerto Cabello, Venezuela, Puerto Colombia, Puerto Cartagena, Colombia, Cristobal, C. Z., Kingston, Jamaica, and Cap Haitian, Haiti. The service so designated is a consolidation of two services formerly owned and operated by two corporations which were also American citizens within the definition of the Merchant Marine Act, 1936, and which the applicant acquired and has operated and is operating without appreciable interruption;

It further appearing, That the United Fruit Company, an American citizen within said definition, operates and has for a long period operated vessels of United States registry from New York to the ports of Cristobal, C. Z., Puerto Colombia and Cartagena, Colombia, and Kingston, Jamaica;

It further appearing, That the United Fruit Company has protested the award of any operating-differential subsidy contract to the Grace Line Inc., in connection with the above mentioned services on the ground that the United Fruit Company is rendering adequate service by vessels of United States registry, and that the award of the subsidy applied for would give the recipient an undue advantage and be unduly prejudicial to the United Fruit Company;

It is ordered, That a public hearing be held before the Chief Examiner, or such Examiner as he may designate, in Washington, D. C., in Conference Room A, Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets NW., on Thursday, January 19, 1939, at 10:00 A. M., in accordance with the provisions of Section 605 (c) of the Merchant Marine Act, 1936, and for the purposes therein stated.

It is further ordered, That a copy of this order be served forthwith upon the Grace Line Inc., and upon the United Fruit Company, and that notice of said public hearing be published in the FEDERAL REGISTER immediately.

It is further ordered, That so far as applicable, the Rules of Procedure now in force with respect to the Division of Regulation, shall be the rules in effect for this hearing in respect to the procedure to be followed, the intervention of parties, and the taking of evidence.

By the Commission.

[SEAL] W. C. PEET, Jr.,
Secretary.

[F. R. Doc. 39-90; Filed, January 6, 1939; 1:02 p. m.]

[1] 3 F. R. 2663 DI.